

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

ENTROPIC COMMUNICATIONS, LLC,

Plaintiff

v.

CHARTER COMMUNICATIONS, INC.,

Defendant.

Civil Action No. 2:22-cv-00125-JRG

**JURY TRIAL DEMANDED**

**CHARTER'S OBJECTION TO ORDER (DKT. 353) GRANTING-IN-PART  
AND DENYING-IN-PART PLAINTIFF'S MOTION TO STRIKE  
THE OPINIONS OF CHRISTOPHER BAKEWELL (DKT. 174)**

Pursuant to Fed. R. Civ. P. 72, Defendant Charter Communications, Inc. respectfully objects to the November 28, 2023 Order (Dkt. 353) granting-in-part Entropic's motion to strike the opinions of Christopher Bakewell (Dkt. 174).

## **I. APPLICABLE LEGAL STANDARD**

For non-dispositive motions, the Order is analyzed to determine if it is "clearly erroneous or contrary to law." L.R. CV-7(a)(2); L.R. CV-72(b). "The district judge applies a clearly erroneous standard to the magistrate judge's factual conclusions, a contrary to law standard to his legal conclusions, and abuse of discretion standard to the numerous instances in which magistrate judges exercise discretion in resolving nondispositive matters." *Personalized Media Commc 'ns, LLC v. Zynga, Inc.*, No. 2:12-CV-0068-JRG-RSP, 2013 WL 12147661, at \*1 (E.D. Tex. July 22, 2013) (cleaned up).

## **II. OBJECTIONS**

### **A. Mr. Bakewell's Opinions Non-License Opinions Regarding Pathtrak Should Not Be Struck**

Magistrate Judge Payne granted Entropic's motion to strike paragraphs 594-595, 596 (regarding the '008, '826, and '362 Patents), Exhibit 1.0 (regarding the same patents) from Mr. Bakewell's rebuttal report based on a license that was not disclosed during discovery. (Dkt. 353 at 8.) Charter objects to the Order to the extent it is overbroad by striking other facts regarding PathTrak in those paragraphs that were fully disclosed during discovery.

### **B. Mr. Bakewell's Opinions On Non-Infringing Alternatives Should Not Be Struck**

In granting Entropic's motion to strike Mr. Bakewell's opinions concerning MaxLinear chips as a non-infringing alternative, Magistrate Judge Payne explained that "[t]he Court notes that it has recommended granting summary judgment that the MaxLinear Chips could not be non-infringing alternatives. Accordingly, these paragraphs are irrelevant and should be struck." (Dkt.

353 at 3.) As set forth in Charter's objections to the Report and Recommendation Granting-in-Part Entropic's Motion for Partial Summary Judgment That Devices with MaxLinear Chips are Not Non-Infringing Alternatives Affecting The Reasonable Royalty Rate, filed contemporaneously with this brief, the Report and Recommendation was based on clear error and/or contrary to law. Should the Court sustain Charter's objections for the reasons set forth in Charter's brief, Charter respectfully requests that this portion of Magistrate Judge Payne's order be reconsidered and denied.

### **III. CONCLUSION**

Charter respectfully requests that the Court sustain Charter's objections to the Order.

Dated: December 7, 2023

Respectfully submitted,

/s/ Daniel Reisner by permission Elizabeth Long

Deron R. Dacus  
State Bar No. 00790553  
The Dacus Firm, P.C.  
821 ESE Loop 323, Suite 430  
Tyler, TX 75701  
Phone: (903) 705-1117  
Fax: (903) 581-2543  
Email: [ddacus@dacusfirm.com](mailto:ddacus@dacusfirm.com)

Daniel L. Reisner  
David Benyacar  
Elizabeth Long  
Albert J. Boardman  
Melissa Brown  
Arnold & Porter Kaye Scholer LLP  
250 West 55th Street  
New York, New York, 10019-9710  
Telephone: (212) 836-8000  
Email: [daniel.reisner@arnoldporter.com](mailto:daniel.reisner@arnoldporter.com)  
Email: [david.benyacar@arnoldporter.com](mailto:david.benyacar@arnoldporter.com)  
Email: [elizabeth.long@arnoldporter.com](mailto:elizabeth.long@arnoldporter.com)  
Email: [albert.boardman@arnoldporter.com](mailto:albert.boardman@arnoldporter.com)  
Email: [melissa.brown@arnoldporter.com](mailto:melissa.brown@arnoldporter.com)

Marc A. Cohn  
Amy L. DeWitt  
William Louden  
William O. Young, Jr  
Thomas Carr  
Natalie Steiert  
Arnold & Porter Kaye Scholer LLP  
601 Massachusetts Avenue NW  
Washington, DC 20001-3743  
Telephone: (202) 942-5000  
Email: [marc.cohn@arnoldporter.com](mailto:marc.cohn@arnoldporter.com)  
Email: [amy.dewitt@arnoldporter.com](mailto:amy.dewitt@arnoldporter.com)  
Email: [william.louden@arnoldporter.com](mailto:william.louden@arnoldporter.com)  
Email: [william.young@arnoldporter.com](mailto:william.young@arnoldporter.com)  
Email: [thomas.carr@arnoldporter.com](mailto:thomas.carr@arnoldporter.com)  
Email: [natalie.steiert@arnoldporter.com](mailto:natalie.steiert@arnoldporter.com)

Zachary A. Nemirovsky  
Arnold & Porter Kaye Scholer LLP  
3000 El Camino Real, 5 Palo Alto Square, #500

Palo Alto, California, 94304  
Telephone: (650) 319-4500  
Email: [zachary.nemirovsky@arnoldporter.com](mailto:zachary.nemirovsky@arnoldporter.com)

*Attorneys for Defendant  
Charter Communications, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document and all attachments thereto are being filed electronically in compliance with Local Rule CV-5(a). As such, this document is being served December 7, 2023, on all counsel of record, each of whom is deemed to have consented to electronic service. L.R. CV-5(a)(3)(A).

*/s/ Elizabeth Long*  
Elizabeth Long